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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/643,181	08/18/2003	Farrokh Farzin-Nia	ORM-230US	3632
26875	7590	10/18/2006	EXAMINER	
WOOD, HERRON & EVANS, LLP 2700 CAREW TOWER 441 VINE STREET CINCINNATI, OH 45202			BUMGARNER, MELBA N	
			ART UNIT	PAPER NUMBER
			3732	

DATE MAILED: 10/18/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/643,181

Applicant(s)

FARZIN-NIA ET AL.

Examiner

Melba Bumgarner

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 08 August 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 28-37 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 28-37 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 July 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 37 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Recitation of "said ligating slide" lacks sufficient antecedent basis.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 28, 29, and 32-37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Abels et al. (6,607,383) in view of Kurz (5,857,849). Abels et al. disclose a self-ligating orthodontic bracket comprising a bracket body 10 configured to be mounted to the tooth of a non-metallic material, a metallic insert 13 including an archwire slot 11 mounted in the body, and a ligating member 20 coupled with the insert movable relative to the inset between an open position and closed position; however, they do not show a metallic ligating member. Kurz teaches a self-ligating orthodontic bracket comprising a ligating member of plastic, porcelain or metal with tooth colored facing. It would have been obvious to one having ordinary skill in the art at the time the invention

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was made to modify the plastic member of Abels et al. with the tooth colored metal member as Kurz teaches either can be used so long as the material is resilient. Abels et al. show non-metallic material of polymer. Abels et al. show the insert having a plurality of walls embedded in the non-metallic material, it would have been an obvious matter of choice to one of ordinary skill in the art as to the specific shape of the insert that is described as embedded in the material. Abels et al. shows the ligating member coupled with a guide 14. It would have been obvious matter of choice as to the manner in which the guide is coupled to the ligating member. The archwire slot extends in a mesial/distal direction when mounted and the guide in the mesial/distal direction. It would have been obvious matter of choice as to duplication of a part. Abels et al. show an engagement member or a spring arm 23 and a detent 24 in the ligating member, it would have been obvious to one of ordinary skill in the art to have the detent on the spring arm, since a mere reversal of the essential working parts of a device involves only routine skill in the art.

5. Claim 30 is rejected under 35 U.S.C. 103(a) as being unpatentable over Abels et al. in view of Kurz and further in view of Moschik (6,264,469). Abels et al. and Kurz disclose a bracket that shows the limitations as described above; however, they do not show non-metallic material of claim 30. Moschik teaches an orthodontic bracket having a body comprising aluminum oxide (column 3 line 50). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have aluminum oxide in order to improve bonding properties of the orthodontic component in view of Moschik.

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6. Claim 31 is rejected under 35 U.S.C. 103(a) as being unpatentable over Abels et al. in view of Kurz and further in view of Reher et al. (5,254,002). Abels et al. and Kurz disclose a bracket that shows the limitations as described above; however, they do not show non-metallic material of claim 31. Reher et al. teach an orthodontic bracket comprising a body of polycarbonate (column 3 line 50). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have the non-metallic material of polycarbonate in order to use a plastic material that is easily formed in a mold and strengthened with filler in view of Reher et al.

#### ***Response to Arguments***

7. Applicant's arguments with respect to claim have been considered but are moot in view of the new ground(s) of rejection.

#### ***Conclusion***

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the

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advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melba Bumgarner whose telephone number is 571-272-4709. The examiner can normally be reached on Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Shaver can be reached at 571-272-4720. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in cursive script, reading "Melba Bumgarner".

Melba Bumgarner  
Primary Examiner